

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

EDDIE M. LACKEY,

Petitioner, : Case No. 3:19-cv-246

- vs -

District Judge Walter H. Rice  
Magistrate Judge Michael R. Merz

NORMAN ROBINSON, Warden,  
London Correctional Institution,

Respondent.

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**TRANSFER ORDER**

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This is a habeas corpus case brought *pro se* by Petitioner Eddie M. Lackey pursuant to 28 U.S.C. § 2254. Lackey seeks relief from his conviction in the Montgomery County Common Pleas Court on May 30, 2014, for conspiracy to commit aggravated arson and attempted aggravated arson

The case is before the Court for initial review under Rule 4 of the Rules Governing § 2254 Cases. Conducting that review, the Magistrate Judge finds Lackey has a prior habeas corpus case in this Court, *Lackey v. Warden*, Case No. 3:16-cv-458. The Petition in that case also attacked Petitioner's conviction in the Common Pleas Court of Montgomery County for conspiracy to commit aggravated arson and attempted aggravated arson in that court's Case No. 2013-CR-1111/2. Examination of the Montgomery County Clerk of Courts' docket for that case number shows that there has been no amended judgment in the case.<sup>1</sup>

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<sup>1</sup> [www.mcclerkofcourts.org](http://www.mcclerkofcourts.org), visited August 15, 2019.

The Court accordingly finds that the instant Petition is a second-or-successive habeas application directed to the same conviction. This finding is strengthened by the fact that Lackey already applied to the Sixth Circuit for permission to file a second-or-successive application raising the same or nearly the same claims he makes now. *In re: Eddie Lackey*, Case No. 18-4120 (6<sup>th</sup> Cir. Feb. 27, 2019)(unreported; copy at ECF No. 36 in Case No. 3:16-cv-458.)

Because the Petition is a second-or-successive habeas application, this Court lacks jurisdiction to decide it. *Franklin v. Jenkins*, 839 F.3d 465(6<sup>th</sup> Cir. 2016); *Burton v. Stewart*, 549 U.S. 147 (2007). Instead, we are obliged to transfer the case to the Sixth Circuit to allow that court to decide whether it may proceed. *In re Sims*, 111 F.3d 45 (6<sup>th</sup> Cir. 1997).

Accordingly, it is hereby ordered that the Clerk TRANSFER this case to the United states Court of Appeals for the Sixth Circuit for further proceedings under 28 U.S.C. § 2244.

August 15, 2019.

s/ ***Michael R. Merz***  
United States Magistrate Judge